

<H.cover>The Role of the Municipality in Establishing Owners' Associations

<t.cover>Maintaining and improving the condition of the existing housing stock is one of the most important problems confronting Romania's transition to a market economy. The quality of life in apartment buildings affects people in every municipality and has a significant impact on perceptions of the effectiveness and ability of local governments to deliver services to their citizens. Municipalities have no legal obligation to improve housing conditions in privatized apartment buildings, but there is no doubt that it is very much in their interest to assist their citizens wherever possible. One way to do that is to help citizens establish condominium Owners' Associations in their buildings. With relatively little effort and cost, cities can help organize these associations and provide assistance in the various legal, technical, and financial issues that must be resolved. The result will be the creation of citizen-based housing organizations with the legal authority and responsibility to manage and maintain their properties. The Owners' Associations can make badly needed repairs and improvements that local governments do not have the resources to provide. The objective of a program of assistance to residential owners is to give owners the tools and support they need to solve their own housing problems. The outcome can be a more positive image of a local government that helps its people and responds to their needs.

ICMA's International Municipal Programs

International Municipal Information Series Report

Founded in 1914, the International City/County Management Association (ICMA) is a non-profit professional association committed to enhancing the quality and performance of local government administration throughout the U.S. and internationally. ICMA has over 8,000 members worldwide, including top appointed administrators, elected officials, members of the academic community, and other professionals who share the goal of improving local government.

The mission of ICMA's International Municipal Programs is to support and strengthen local government institutions in developing countries and emerging democracies. With the financial support of the U.S. Agency for International Development's Office of Environment and Urban Programs, ICMA is engaged in a wide range of technical assistance activities in Central and Eastern Europe, the New Independent States (NIS), Latin America, Asia, and Africa. ICMA provides an array of services, training programs, and authoritative publications on virtually every aspect of municipal government, management, and finance.

In 1993, the United States Agency for International Development (USAID) asked ICMA to carry out a Local Government Assistance Program in Romania. The goal of the Program is to encourage and support efforts to devolve responsibility, authority, and management of resources to local governments in Romania.

ICMA, working in close association with the Federation of Municipalities of Romania, has developed a program of technical assistance and training with the cities of Braşov, Constanţa, Craiova, Focşani, Oradea, and Piatra Neamţ.

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<t1.intro>In Braşov, ICMA's assistance has focused on improving infrastructure systems and services and on implementing a pilot condominium development project. This report is based on the work carried out in Braşov by ICMA and the Urban Institute and was prepared by Carol Rabenhorst of the Urban Institute. This report was funded by USAID under the Local Government and Housing Privatization Project for Central and Eastern Europe (Contract No. EUR-0034-C-00-2034-00, Request for Services #99). The consultants and ICMA are grateful to Mayor Adrian Moruzi and Deputy Mayor Corneliu Popa of Braşov for their interest in and support of this work.

<ha>The Transition to Privately-Owned Housing

<t1>Most tenants in state-built apartment houses became the owners of their buildings several years ago. Despite the change in the legal form of ownership, little or no change has occurred in the privatized buildings in Romania. The housing laws failed to establish a new structural framework for organizing the owners and managing the buildings. Instead, the Tenants' Associations were expected to continue to carry out management functions as before. But local and state government officials, as well as the residents of the housing, have come to recognize that the Tenants' Associations are inadequate for managing owner-occupied properties.

<t> To develop a more effective framework for private ownership and building management, USAID is supporting the enactment of a condominium law and demonstration projects in condominium formation. Under the condominium form of ownership of an apartment building property, the apartments and nonresidential units, such as shops, are designated for individual ownership, and the remainder are designated as common property. The owners of the apartments and nonresidential units have joint ownership of the common property. Owners in a condominium have most of the same rights as any other owner of real estate. Within certain broad limits, condominium owners are free to use, sell, rent, bequeath, or mortgage their property. As a result of their joint ownership of the common property, all owners have the right and the duty to participate in making decisions about the management of the property and the regulations with which all residents must comply.

<t> Under the condominium form of ownership in other countries, Owners' Associations are responsible for managing the common property and regulating condominium operations. All persons who become owners are members of the Association and bound by its rules. To establish a condominium, the owners must adopt an Association Agreement and register the Owners'

Association in the jurisdiction where the condominium is located. A condominium Owners' Association is a legal entity under the law, authorized to enter into contracts and enforce its rules in court. Since there is currently no condominium law in Romania, Owners' Associations are being registered under a law that authorizes the establishment of nonprofit organizations.

#### <ha>The Role of Local Government

<t1>A demonstration project in the City of Braşov, which began in 1994 with the assistance of USAID, ICMA, and the Urban Institute, has shown the benefits that can occur when the local government gets involved in helping the new owners organize to improve conditions in their property. On the basis of this experience, this monograph offers some suggestions to other cities who wish to undertake a similar demonstration program.

<t> For improvements in privatized buildings to occur, the owners must understand two principles:

<tb1>● The rights and responsibilities of owners are different from those of tenants.

<tb2>● Before they can begin to operate and manage their property more effectively and improve conditions in their building, the owners must establish an Owners' Association. The Owners' Association can then adopt an operating budget, account for income and expenses, and set priorities for maintenance and repair of the property.

<t> The new owners must manage their buildings themselves and make their own decisions about needed repairs and improvements. To do so, they must understand the laws that apply to this form of ownership, and how to organize an Owner's Association.

<t> What can the local government do to help? The following summarizes the steps that a city should undertake to implement a condominium demonstration project.

#### <hb>Step 1: Appoint a City Hall Coordinator

<t1>The first step is for the leadership of the city (the Mayor or Vice Mayor) to designate a City Hall Coordinator for the program. Since the support and participation of high-level elected officials is vital to the success of the program, the City Hall Coordinator should be a person who can work well with the Mayor, the Local Council, the Prefecture (the office that represents the national government in the county), and other officials, as well as with the public. The City Hall Coordinator should have the ability to communicate effectively.

<t> The City Hall Coordinator should be well acquainted with the activities and problems of the Tenants' Associations and should understand that a new form of organization is necessary for operating privately-owned property. The City Hall Coordinator must be capable of explaining to the new owners how an Owners' Association is organized and how it will operate.

#### <hb>Step 2: Select Buildings and Building Leaders

<t1>To determine which buildings are interested in participating in the demonstration program, the City Hall Coordinator should distribute a notice and application form throughout the city. The form should suggest that the owners hold a meeting to vote on whether to participate. If the response is positive, the owners should elect one or two representatives to work with the City Hall Coordinator. The notice should state that at the owners' request, the City Hall Coordinator will attend the initial meeting to discuss the project in more detail.

<t> From the responses received, the City Hall Coordinator should select as participants in the demonstration only buildings with a large majority of owners who are willing to form an association and take over management of the property. The elected representatives become the contact between the City Hall Coordinator and the other owners in the building.

### <hb>Step 3: Meet with Owners and Distribute Materials

<t1>If the City Hall Coordinator does not attend the meeting when the owners vote to form an Owners' Association, he or she should attend the next meeting with the owners at the building to discuss how the Owners' Association can be established, answer the owners' questions, and distribute written public information materials on condominiums.

<t> When the owners meet, an elected representative can chair the meeting. At that meeting, or shortly thereafter, the owners should elect officers and/or an executive committee.

### <hb>Step 4: Select Legal, Technical, and Financial Experts

<t1>At the same time the City Hall Coordinator is determining which buildings are interested in establishing an Owners' Association, the City Hall Coordinator and other representatives of the municipality should be selecting persons who can assist the new Owners' Associations with legal, financial, and technical matters during the demonstration project. These persons do not have to work for the city; they may be working in the private sector. The city may want to consider providing some financial help to the owners to pay for the experts' services. The experts should be able to offer services to interested buildings, such as legal assistance with registration of the Owners' Association, technical inspection of buildings, and assistance with budgeting and financial recordkeeping. The most important attributes to look for in selecting these persons are their expertise in their respective areas and their understanding and support of the condominium concept. The City Hall Coordinator's role is to facilitate communication between the experts and the owners.

### <hb>Step 5: Establish Owners' Associations

<t1>The primary purpose of an Owners' Association is to protect the members' investment and enhance the value of the property they own. This is done by providing for the physical maintenance and operation of the common property and by enforcing obligations and restrictions imposed on all members. Owners are in the best position to carry out these duties and make important policy decisions about the property.

<t> At the present time, there is no special law requiring an Owners' Association in privatized apartment buildings, but Owners' Associations can still be formed on a voluntary basis. Without an Owners' Association, there would be no legal entity that can act on behalf of the owners. Even simple tasks such as opening a bank account for keeping funds for renovating the common property would be difficult.

<t> The local government can help the owners organize an Owners' Association by providing a sample Association Agreement. In some cases, owners may want to establish an Owners' Association comprised of fewer units or buildings than the Tenants' Association to which they formerly belonged. The City Hall Coordinator can assist with notification to the Tenants' Association and coordination to resolve technical or financial issues that may arise.

#### <hb>Step 6: Prepare the Association Agreement

<t1>The Association Agreement provides basic rules governing the operation of the condominium and a means for the owners to agree on new rules and policies. Without an Association Agreement, these decisions would have to be made on an *ad hoc* basis. An Association Agreement, in the form of a charter, is required to register the Owners' Association as a legal entity. This allows the Owners' Association to represent the individual owners in signing contracts or if it becomes necessary to take legal action to enforce the rules and requirements of the Owners' Association.

<t> The Association Agreement also describes how the owners will make decisions about the governance and operation of the condominium. A general assembly of the owners should be held at least once a year. Most decisions will be made by majority vote. All owners will be bound by the decisions of the association, whether or not they voted for them.

#### <hb>Step 7: Register the Owners' Association

<t1>The Association Agreement must be approved by a notary and registered with the court. Approval of the Local Council is also needed for the Owners' Association to have nonprofit status. If a lawyer is not available to help with these procedures, the municipality can provide documents and a description of the procedures, which are available in the handbook *The Role of the Legal Expert* (see the list of publications at the end of this monograph).

#### <hb>Step 8: Provide Training in Condominium Operations and Management

<t1>The City Hall Coordinator and local legal, financial, and technical experts should become thoroughly familiar with the contents of the *Condominium Operations and Management Training Manual* prepared for the Braşov demonstration project. When they have done so, and have visited the demonstration buildings to become familiar with the owners and the properties, the City Hall Coordinator should organize a training workshop. The workshop will be for the executive committee members of the owners' associations and other persons in the community who are interested in providing services to condominiums, to familiarize them with what is involved in

managing the properties. Other persons might include construction and repair firms, insurance companies, realtors, and accountants.

<t> It is very important to develop support and understanding of the project at all levels of the local government and among others involved in setting policy for the city. For that reason, representatives of the Prefecture, the County Council, the Local Council, and the Regii supplying services to condominiums should also be invited to training seminars in condominium management.

<t> The owners and other persons who attend the training can be asked to pay a small fee to cover the cost of the training materials and compensation for the experts who will be speaking.

#### <hb>Step 9: Provide Public Information

<t1>It is not possible for the City Hall Coordinator to talk personally with every citizen who is interested in knowing more about condominiums. He/she should arrange to publicize the program in the mass media and through distribution of written public information materials. Radio, television, and newspaper reporters should be informed when a significant event, such as a training session, takes place. Interviews with the City Hall Coordinator, the experts, and representatives of Owners' Associations should be encouraged.

#### <ha>Conclusion

<t1>Many questions and unforeseen obstacles may arise during the implementation of the steps listed above. USAID and ICMA have prepared a variety of materials to assist cities with organizing a demonstration project in condominium formation. Plans are now underway to establish a national center that can provide additional assistance and information on the condominium program. For the time being, the following related publications are available from ICMA/Bucharest (Piata Amzei 10-22, Sc.C. Ap. 2 Sector 1, Bucharest, Romania, Tel/Fax 401-659-7436 or 311-2128), and the Federation of Municipalities (Hotel Dorobanți, Calea Dorobanților Nr 1-7, Rokura Business Center Dorobanți, Bucharest, Romania, Tel 401-211-0651, 211-0653, or 211-2640, Fax 401-210-0310):

<tb1>● Condominium Operations and Management Training Manual

<tb>● A Guide to Condominiums for Romania

<tb>● Handbook Series on Establishing Condominiums:

<t> I. The Role of the City Hall Coordinator

<t> II. The Role of the Owners' Representative

<t> III. The Role of the Legal Expert

<t> IV. The Role of the Technical Expert

<t> V. The Role of the Financial Expert

<tb>● Sample Association Agreement

<tb2>● Sample Application Form for Demonstration Buildings